

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6325 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KANSARA KETAN KESHAVLAL

Versus

GUJARAT SECONDARY EDUCATION BOARD

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Appearance:

MS KIRAN J SEJPAL for Petitioner

MR SP HASURKAR for MR.VIJAY H PATEL for Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 30/09/96

ORAL JUDGEMENT

Leave to place on record the copy of mark-sheet except the marks in "English" on record.

2. Rule. Service of Rule waived by Mr.Hasurkar, for Mr.Vijay Patel, learned Advocate appearing for the respondents.

3. The short grievance of the petitioner right from the beginning was that cutting alleged to have been found in possession of the petitioner was in fact not in his possession and it was lying on the floor nearby the seat. The petitioner has asserted that fact before the Examination Committee. The impugned decision imposing the penalty upon the petitioner of withholding the petitioner's result does not speak about the petitioner's explanation as stated above. It is clear that the opportunity of hearing and the consideration of the petitioner's case both are contrary to natural justice. Considering the marks obtained by the petitioner in other subjects it clearly appears that the petitioner could not have carried with him any material for copying. That precisely is the explanation of the petitioner/student. In that view of the matter following order is required to be passed :

The impugned order of penalty is hereby set aside and it is hereby directed that the petitioner's result of New S.S.C. Examination held in March, 1996 shall be declared within a period of four weeks from today after assessing him in the subject of ' English'.

Rule made absolute accordingly with no order as to costs.

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